

TOWN OF RUSTON
Pierce County, Washington
January 1, 1992 Through December 31, 1993

Schedule Of Findings

1. Contract Payments Should Follow State Laws

During our review of sewer construction contracts, we noted four instances where the same contractor requested and received prepayments of up to 50 percent of the contract prior to work starting on the project. These payments ranged from \$4,000 to \$5,000 each.

Article 8, Section 7 of the Washington State Constitution states in part:

No county, city, town or other municipal corporation shall hereafter give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or corporation

In addition, RCW 42.24.080 states in part:

All claims presented against any county, city, district or other municipal corporation . . . shall provide for the authentication and certification by such auditing officer that the materials have been furnished, the services rendered or the labor performed as described, and that the claim is a just, due and unpaid obligation against the municipal corporation
(Emphasis added)

The contractor is a small local business and has difficulty with startup costs for their projects. They requested funds in advance of any work being done in order to buy materials.

The town council was aware of and approved each of these requests, with the balance to be paid upon completion. They were unaware of the laws which prohibited this practice.

We recommend the town discontinue the practice of paying advances for any contracts before the goods or services are actually received.

2. Court Disposition Of Infractions Should Be Made Pursuant To Applicable Laws

During our audit of the municipal court, we noted court citations were not processed in accordance with state law. Traffic infractions are routinely dismissed if the defendant pays court costs and/or probation fees and also has no other traffic violations for a given period of time.

There is no provision in the *Revised Code of Washington* (RCW) which authorizes a court to impose court costs on a defendant unless specifically mentioned in the RCW.

RCW 46.63.151 states:

Each party to a traffic infraction case is responsible for costs incurred by that party. No costs or attorney fees may be awarded to either party in a traffic infraction case, except as provided in RCW 46.30.020(2). [concerning costs awarded for traffic infractions involving mandatory liability insurance]

The court felt that the dismissal of traffic infractions and the order to pay related court costs and probation fees were appropriate.

By continuing to require payments for nonconvicted, noncriminal traffic defendants, the court appears to not be in full compliance with state law governing the disposition of such cases.

We recommend the court follow state code in the disposition of traffic infraction cases.